

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





76-1329

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----X  
UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

CALVIN McCRAY,

Defendant-Appellant.  
-----X

Docket No. 76/1329

B  
Pry S

APPENDIX

NAGER, KROBOW & GILBERT, ESQS.  
Attorneys for Defendant-Appellant  
1565 Franklin Avenue  
Mineola, New York 11501

GEORGE NAGER, ESQ.  
Of Counsel

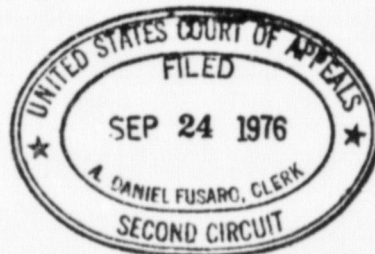


TABLE OF CONTENTS

	<u>Page</u>
Index to Record on Appeal	i
Docket Entry of lower court	ii
United States District Court Eastern District of New York, Clerk's Certificate	iii
Charge to the Jury by Judge Jack B. Weinstein	1
Judgment of Conviction	40

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA

VS

76 Cr. 110

CALVIN McCRAY and ALBERT BOUKNIGHT

---

INDEX TO RECORD ON APPEAL

Certified copy of docket entries	A-B
Superceding indictment	1
Letter of February 20, 1976	2
Notice of readiness for trial	3
Notice of appearance	4
Letter of April 16, 1976	5
Order of sustenance	6
Judgment and probation/commitment order for Bouknight	7
Letter of May 26, 1976	8
Judgment and probation/commitment order for McCray	9
Notice of appeal	10
Transcript of record and proceedings dated August 19, 1976	11
Verification of appeal	12
Clerk's certificate	13

-u-



District Office 207 1	Disposition McCRAY, CALVIN	No. 2 WEINSTEIN	U.S. CODE SECTION 26:5841, 5861, 5871
CHARGES 26:5812, 5861, 5871 Possess a firearm which was registered as required. 1 18:371 Transfer a firearm. 1 Conspiracy to transfer a firearm. 1		MAGR. CASE NO.	
U.S. Attorney or Asst. Richard W. Brewster		Defendant George Nager 1565 Franklin Avenue, Mineola, NY 516 PI 2-0700	
ARREST <input type="checkbox"/> U.S. Custody Began on Above Charges <input type="checkbox"/> High Risk Defn. & Date Design'd <input type="checkbox"/> Prosecution Deferred		INDICTMENT <input type="checkbox"/> Information <input type="checkbox"/> Waived <input checked="" type="checkbox"/> Superseding Indict/Info 2-12-76	
ARRAIGNMENT 3-3-76 1st Plea II Final Plea		TRIAL Trial Set For 4-19-76 Trial Began 4/21/76 Trial Ended 4/23/76 Disposition 4/23/76 <input checked="" type="checkbox"/> Convicted <input type="checkbox"/> Acquired <input type="checkbox"/> Dismissed <input type="checkbox"/> Nolo/Discontinued	
SEARCH WARRANT Issued Return		SUMMONS Issued Served	
ARREST WARRANT COMPLAINT OFFENSE (In Complaint)		OUTCOME <input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District CJ <input type="checkbox"/> Held to Answer to U. S. District Court AT: Magistrate's Initials	

Show last names and suffix numbers of other defendants on same indictment/information BOUKNIGHT		V. Excludable Delay			
DATE	PROCEEDINGS	(a)	(b)	(c)	(d)
2-12-76	Before JUDD, J. - Superseding indictment filed.				
2-18-76	Before WEINSTEIN J - case called - adjd without date for pleading.				
2/24/76	Letter from George Nager dated 2/20/76 adjourning case to 3/3/76- So Ordered by Judge Weinstein on bottom of letter				
2-25-76	Before WEINSTEIN J - case called -and adjd to March 3, 1975 at 10:30 am for pleading.				
3-3-76	Notice of Appearance filed				
3-3-76	Before WEINSTEIN J - case called - deft & atty present - deft arraigned and enters a plea of not guilty - pre trial conference held & concluded -deft O.R. trial set for 4-19-76				
3-3-76	Notice of Readiness for Trial filed				
4/20/76	Letter from George Nager dated 4/16/76 confirming adjournment of case to 4/20/76 filed- So Ordered on bottom of letter				
4/21/76	Before WEINSTEIN, J.- Case called- deft and counsel present trial ordered and begun- jurors selected and sworn-trial contd to 4/22/76 at 9:30 A.M.				
4/22/76	Before WEINSTEIN, J.- Case called- deft and counsel present trial resumed -govt rests- deft's motion to dismiss denied deft rests-trial contd to 4/23/76				

OPPOSITE THE APPLICABLE TICKET ENTRIES IN SECTION IV SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC §3161(h) - "SPEEDY TRIAL ACT".

DATE	IV. PROCEEDINGS (continued)	AVOIDABLE DELAY			
		(a)	(b)	(c)	(d)
4/23/76	Before WEINSTEIN, J.- Case called- deft and counsel present- trial resumed- jury retires to deliberate jury returns and renders a verdict of guilty as to count 2 and not guilty as to counts 1 and 3- jury polled and discharged- deft's motion to set aside guilty verdict as to count 2 is denied- So Ordered trial concluded- deft contd on O.R.- sentence adj without date				
4/23/76	By WEINSTEIN, J.- Order of sustenance filed				
6-1-76	<del>Before</del> Letter filed dated May 26, 1976 received from Chambers from George Nager, Esq. counsel for the deft. together with letter of May 22, 1976 from Samuel Hill.				
6-18-76	Before WEINSTEIN J - case called - deft McCray & counsel G. Nager present - deft sentenced to imprisonment for 5 years - execution of sentence is suspended and deft is placed on probation for 5 yrs and fined \$1500 payable as the probation dept. directs. , over the period of probation on count 2.				
6-18-76	Judgment and order of probation filed - certified copies to probation				
7-8-76	Notice of appeal filed. Duplicate of appeal & duplicate of docket entries mailed to C of A.      jn				
7-9-76	Order received from the court of appeals that the record be docketed on or before 8-23-76				
8-19-76	Stenographers transcript filed dated 4-22-76				
8-20-76	The above record on appeal was certified and handed to Steven I. Batoff for delivery to C of A.				
<div data-bbox="246 1301 805 1655" data-label="Text"> <p>A TRUE COPY  August 20 76  <i>[Signature]</i></p> </div>		(e)	(b)	(c)	(d)
		Interval (per Section II)	Start Date End Date	Ltr. Code	Tota Day



C L E R K ' S      C E R T I F I C A T E

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

USA

-vs-

Calvin McCray.

Docket No. 76CR-110

I, LEWIS ORGEL, Clerk of the United States District Court for the Eastern District of New York, do hereby certify that the foregoing copy of the Docket Entries from A to B and the original papers numbered from page 1 to 13 ~~and exhibits numbered~~ \_\_\_\_\_ constitute the Record on Appeal.

I further testify that the last day to file said record is

August 23, 1976.

IN TESTIMONY WHEREOF, I have caused the seal of said Court to be hereunto affixed, at the Borough of Brooklyn in the Eastern District of New York, this 20<sup>TH</sup> day of August in the year of our Lord, One Thousand Nine Hundred and 76 and the Independence of the United States Two Hundred and 1<sup>st</sup>.

LEWIS ORGEL  
Clerk

By [Signature]  
Deputy Clerk

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
3

4 -----X  
5 UNITED STATES OF AMERICA, :  
6 -against- : 76-CR-110  
7 CALVIN MC CRAY, :  
8 Defendant. :  
9 -----X

10  
11 United States Courthouse  
12 Brooklyn, New York

13 April 22, 1976  
14 10:00 o'clock A.M.

15 B e f o r e :

16 HONORABLE JACK B. WEINSTEIN, U.S.D.J.  
17  
18  
19  
20  
21

22 RAYMOND P. STALKER  
23 ACTING OFFICIAL COURT REPORTER  
24  
25



Appearances:

DAVID G. TRAGER, ESQ.  
United States Attorney  
for the Eastern District of New York

by: RICHARD BREWSTER, ESQ.  
Assistant U.S. Attorney

GEORGE NAGER, ESQ.  
Attorney for Defendant



## (EXCERPT)

(The following is an excerpt from the trial on April 27, 1976, afternoon session.)

(Jury enters box.)

THE COURT: Now, all of you know where to go tomorrow morning at 9:30. You will check in downstairs and come up as usual. But, you are not to discuss the case until I call you into the courtroom and say a few final words to you. Then you begin your deliberations.

I am going to tell you what the law is now and I want you to follow these instructions. It is going to be your responsibility and yours alone to judge the facts. Neither the lawyers nor I can help you any more than we have up to this point in doing that.

I personally have no view at all as to the guilt or innocence of this defendant.

My only purpose here and my only function is to see that this case is tried fairly and in accordance with the law and the evidence as you have heard it.

The fact that the prosecution is brought in

1  
2 the name of the United States is entitled to no  
3 weight at all. Everybody in this court is treated in  
4 the same way. Nobody is entitled to favor and no  
5 one is entitled to sympathy. The fact that there is  
6 an indictment is entitled to no weight at all. It is  
7 not evidence at all of guilt.

8 The defendant has pleaded not guilty and that  
9 means that the Government has the burden of proving  
10 guilt beyond a reasonable doubt with respect to each  
11 element of each of the three offenses that I am  
12 going to tell you about.

13 That burden never shifts to the defendant.  
14 The defendant has not to prove his innocence. He  
15 doesn't have to submit any evidence at all. A  
16 presumption of innocence remains with him throughout  
17 the trial and must be considered by you in your  
18 deliberations.

19 A reasonable doubt means a doubt sufficient  
20 to cause a prudent person to hesitate to act in the  
21 most important affairs of his or her life. A  
22 reasonable doubt may result from the evidence  
23 produced or from the failure to produce evidence.

24 Finding an individual to be guilty of a felony  
25 and subjecting him to the possibility of punishment



1  
2 is serious and you will consider this in determining  
3 whether you have a reasonable doubt.

4 Nevertheless, if at the end of your  
5 deliberations you are convinced beyond a reasonable  
6 doubt that the defendant is guilty, you should find  
7 him guilty of that crime.

8 In evaluating this evidence that you have  
9 heard you are going to have to rely upon your common  
10 sense and experience. Now, there are three separate  
11 crimes or counts charged and they all arise from the  
12 same event. Each one of these has to be considered  
13 separately, but obviously the evidence on one will  
14 also bear on the other.

15 What you're going to have to do is come in  
16 with a verdict. You can come in with a verdict as  
17 to each one, one at a time as you reach it, or wait  
18 until you've finished and tell us with respect to all  
19 three at the same time.

20 Count 1 charges the defendant with illegal  
21 possession of a shotgun not registered to him as  
22 provided by law. It reads as follows, I am now  
23 going to read from the indictment.

24 "On or about the 15th day of May, 1975,  
25 within the Eastern District of New York, the

1  
2 defendant Calvin McCray did knowingly, willfully and  
3 unlawfully possess firearms, as that term is defined  
4 in Title 2 of the Gun Control Act of 1968, to wit,  
5 a shotgun having a barrel length of less than eighteen  
6 inches, which firearm was not registered to the  
7 defendant Calvin McCray in the National Firearms  
8 Registration and Transfer Record, as required by  
9 Title 26, United States Code, Section 5841, which  
10 reads as follows:

11 "It is unlawful for any person to receive or  
12 possess a firearm which is not registered to him in  
13 the National Firearms Registration Transfer Record."

14 Now, in order to convict a defendant of this  
15 crime, the Government must prove beyond a reasonable  
16 doubt each of three elements.

17 First, that the defendant possess the item in  
18 question; second, that the item possessed was a  
19 serviceable firearm within the meaning of the law;  
20 and third, that the firearm was not registered to the  
21 defendant in the National Firearms Registration and  
22 Transfer Record maintained by the Secretary of  
23 Treasury.

24 Now, as to the first element, the Government  
25 must prove beyond a reasonable doubt that the defendant



1  
2 was in possession of the item, which is as I recall  
3 was Government's Exhibit 1, identified as the shotgun,  
4 having a barrel length of less than 18 inches. I  
5 believe that it is not contested that that item has  
6 a barrel of less than 18 inches.

7 The law recognizes two kinds of possession:  
8 actual possession and constructive possession.  
9 A person who knowingly has direct physical control  
10 over a thing at a given time is then in actual  
11 possession of it.

12 A person who, although not in actual  
13 possession, knowingly has both the power and the  
14 intention at a given time to exercise dominion or  
15 control over a thing, either directly or through  
16 another person or persons, is then in constructive  
17 possession of it.

18 For example, I now have this pen in my hand,  
19 I now have possession of this pen. If I hand it over  
20 to the courtroom deputy, Mr. Sacco, and I say, here,  
21 hold this for me, I am still in possession of it.  
22 I am in constructive possession of it.

23 If I gave it to him so he could sign a  
24 document in my presence he would not be in possession  
25 within the meaning of the firearms law.

1  
2 Well, for example, if I possessed a gun and  
3 I went hunting with somebody and I handed it to a  
4 hunting companion to shoot in my presence and under  
5 my supervision, he would not be in possession within  
6 the meaning of the statute and he wouldn't have to  
7 register it in his name for that purpose, for handing  
8 it over for that few moments to use.

9 But, if I loaned it to him for a longer period  
10 to be held outside my presence, for example, if I lent  
11 it to him and I said, "Here, you are going hunting  
12 for a week. I'm not going with you. You can have my  
13 gun." Then he would have possession and under the  
14 statute he would have to register it.

15 The same thing would be true if I gave it t  
16 him under a pawn, security for a loan or if I gave it  
17 to him and said, "Hold it and hide it for me, I'll get  
18 around and pick it up when I need it." That would be  
19 possession and he would have to have it registered  
20 in his name under the gun control act.

21 The reason for that is the purpose of the  
22 statute is to have the registered owner in immediate  
23 control of a gun or to have it in his home, car or  
24 boat that he controls.

25 So, if a person has a sealed package containing



1  
2 a gun and he doesn't know what's in the package, for  
3 example, if I put it in a trunk and I said, "Hold this  
4 trunk for me for a couple of weeks," and the person  
5 I gave it to didn't know there was a gun in it, he  
6 wouldn't be in possession of that gun within the  
7 meaning of the statute, even though we would say from  
8 a layman's point of view he would have possession of  
9 the gun, but he wouldn't have to register it in his  
10 own name; obviously, he wouldn't know he had it.  
11 So he couldn't register it in his own name.

12 An act is done or a condition such as possession  
13 exists knowingly if the defendant's relation to it is  
14 both voluntary and intentional. A person does not  
15 knowingly do an act or allow a condition to exist if  
16 his action or failure to act resulted from a mistake,  
17 negligence or any other innocent reason. He did not  
18 know what was in the package, then he wouldn't have  
19 possession.

20 Knowledge may be proven by the defendant's  
21 conduct and by all the facts and circumstances  
22 surrounding the case. No person can intentionally  
23 avoid knowledge by closing his eyes to facts which  
24 should prompt him to investigate.

25 You may find that this defendant had possession

1  
2 of the shotgun in question, that is the smaller of  
3 these items, if you find beyond a reasonable doubt  
4 that the defendant had actual or constructive  
5 possession of it as I have just defined these terms  
6 to you.

7 Now, as to the second element, the Government  
8 must establish beyond a reasonable doubt that the  
9 item in question was a serviceable firearm within the  
10 meaning of the statute. According to the statute, a  
11 firearms includes a shotgun with a barrel of eighteen  
12 inches, but does not include an antique firearm.

13 A shotgun is defined as a weapon, I am now  
14 quoting from the statute, "designed or re-designed,  
15 made or re-made, and intended to be fired from the  
16 shoulder and designed or redesigned and made or re-  
17 made to use the energy of the explosive in a fixed  
18 shotgun shell to fire through a smooth bore either  
19 a number of projectiles or a single projectile for  
20 each pull of the trigger, and shall include any such  
21 weapon which may be readily restored to fire a  
22 fixed shotgun shell."

23 An antique firearm means one not designed to  
24 be used with the conventional center fire ignition  
25 with fixed ammunition which was actually manufactured



1 before or after the year 1898 and any firearm using  
2 fixed ammunition manufactured in or before 1898  
3 which no longer uses manufactured ammunition from this  
4 country, and I do not believe that anybody is  
5 contending that this is an antique.  
6

7 Unservicable firearm means a firearm which is  
8 incapable of discharging a shot by means of an  
9 explosive.

10 You remember there was testimony that this  
11 particular weapon was serviceable and had in fact been  
12 test-fired. So, you may find that the defendant had  
13 possession of a firearm within the meaning of the  
14 statute if you find beyond a reasonable doubt that  
15 he had possession of a weapon which is designed or  
16 can be redesigned to be fired from the shoulder and  
17 to fire through a smooth bore a projectile, provided  
18 it's not an antique firearm.

19 The third element is that the firearm was not  
20 registered to the defendant in the National Firearms  
21 Registration and Transfer Record. If you're not  
22 registered, you can't possess such a weapon lawfully  
23 and here the defendant has stipulated that the gun  
24 was not registered, either to him or to Mr. Bouknight.

25 Now, count 2 charges that the defendant

1  
2 charges that the defendant illegally transferred the  
3 shotgun without complying with certain procedures  
4 required by law for the transfer of firearms. The  
5 indictment reads:

6 "On or about the 15th day of May, 1975, within  
7 the Eastern District of New York, the defendant Calvin  
8 McCray did knowingly, willfully and unlawfully  
9 transfer a firearm, as that term is defined in  
10 Title 2 of the Gun Control Act of 1968, to wit, a  
11 shotgun having a barrel length of less than eighteen  
12 inches, without complying with the provisions of the  
13 United States Code."

14 The United States Code, Title 26, Section 5861(e)  
15 says, "It shall be unlawful for any person to transfer  
16 a firearm in violation of the provisions of this  
17 chapter."

18 Now, in order to violate the provisions of that  
19 chapter again the Government has to prove three  
20 elements.

21 First, that the defendant knowingly possessed  
22 the shotgun in question, and that that weapon was  
23 a serviceable firearm, as I have defined these terms  
24 to you.

25 Second, that the defendant knowingly and  
willfully transferred the shotgun to another. The



statute defines transfer as follows:

"The term transfer shall include selling, signing, pledging, leasing, loaning, giving away, or otherwise dispose of."

Any way you transfer it or give it over to someone else constitutes a transfer.

Third, the defendant must have failed to comply with the provisions of the title in question. That requires that a person who wishes to transfer a firearm first make application to the Secretary of the Treasury and have that application approved. I won't tell you what needs to be done in these applications because it has been stipulated that no such application for a transfer was made, either by Defendant McCray or by Mr. Bouknight.

If you find beyond a reasonable doubt that the defendant knowingly transferred the shotgun without complying with these requirements you may find him guilty.

Now, with respect to both counts 1 and 2, there is another aspect of the law that you have to consider, because you may find that the defendant is, what is called, an aider or abettor, and that he aided and abetted Mr. Bouknight in the commission of the crimes

1 charged.

2  
3 The relevant statute, Section 2 of Title 18  
4 of the United States Code reads:

5 "Whoever commits an offense against the United  
6 States or aids, abets, counsels, commands, induces or  
7 procures its commission, is punishable as a principal,  
8 and;

9 "Whoever willfully causes an act to be done  
10 which if directly performed by him or another would be  
11 an offense against the United States, is punishable as  
12 a principal."

13 In order to find aiding or abetting  
14 Mr. Bouknight, if you find that Mr. Bouknight himself  
15 committed a crime charged in either count 1 or 2,  
16 it is necessary to find that this defendant willfully  
17 associated himself with the criminal venture as charged  
18 and that he willfully participated in it as he would  
19 something he wished to bring about. Mere presence at  
20 the scene is not enough. He has to actually  
21 participate in the venture in order to help bring it  
22 about.

23 So, if you want to find out whether the  
24 defendant aided or abetted Mr. Bouknight, you can ask  
25 yourselves such questions as these: "Did he willfully



1  
2 and knowingly associate himself with a criminal  
3 venture to transfer a shotgun in violation of the law?  
4 Did he participate in it as something he wished to  
5 bring about? Did he seek by his actions to make it  
6 succeed? If he did, then he is an aider and abettor.

7 The aider and abettor must have knowledge of  
8 the facts constituting the crime. The defendant must  
9 have a criminal intent, but he need not know what the  
10 law is. Obviously, if he didn't know what was going  
11 on he is not guilty. If he had criminal intent to  
12 assist in the commission of a crime, then he would be  
13 an aider and abettor and it doesn't make any difference  
14 how much money he would get out of it or whether he  
15 would get anything out of it. But he has to have that  
16 criminal intent.

17 If he does have it, he is guilty the same way  
18 as he would be as if he were the principal. It  
19 doesn't make any difference whether you find that  
20 Mr. Bouknight was aiding Mr. McCray in committing the  
21 crimes charged in counts 1 or 2 or that Mr. McCray was  
22 aiding Mr. Bouknight. The result would be the same.

23 But, this defendant has to know that it was  
24 criminal activity involved and not be just an innocent  
25 bystander.

Count 3 charges that the defendant conspired with Albert Bouknight to make an illegal transfer.

That count reads as follows:

"On or about the 15th day of May, 1975, within the Eastern District of New York, the defendant Calvin McCray and the defendant Albert Bouknight did knowingly and unlawfully combine, conspire and agree to commit an offense against the United States, to willfully and knowingly transfer a firearm, namely the eighteen-inch shotgun without complying with the provisions of Title 26, United States Code; and in furtherance of the conspiracy, the following overt acts were committed:

"On or about May 15, 1975, the defendants Calvin McCray and Albert Bouknight went to the corner of Hastings Place and South Franklin St., Hempstead, New York; and

"On or about May 15, 1975, McCray and Bouknight did deliver the aforesaid shotgun to an agent of the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department."

So, if it existed, if it happened, it's in violation of Title 18, Section 371 which reads:

"If two or more persons conspire to commit an



1  
2 offense against the United States and one or more of  
3 such persons do any act to effect the object of the  
4 conspiracy, each shall be guilty of a crime."

5 There are three elements that the Government  
6 has to prove beyond a reasonable doubt.

7 First, that there were two or more persons  
8 involved. A person cannot conspire with himself. In  
9 this case, you recall that it's charged that the two  
10 conspirators were Bouknight and this defendant.

11 Second, that they willfully and knowingly  
12 conspired, and;

13 Third, that they conspired to violate the laws  
14 of the United States.

15 In addition, the conspiracy has to be willfully  
16 entered into and entered into with the specific  
17 intent to violate the laws of the United States.

18 So you have to consider first, was there an  
19 agreement? Was this a willful and knowing agreement?

20 In order to find such an agreement, it's not  
21 necessary that the persons be together and enter into  
22 an express or formal agreement, the way you would when  
23 you are buying a house or a car or anything like  
24 that or state it orally or in writing all the details  
25 of the agreement. It is sufficient if they understood

1  
2 it and they came to a mutual understanding of how they  
3 were going to accomplish an unlawful act together.

4 The evidence must show beyond a reasonable doubt that  
5 the conspiracy was knowingly formed and that this  
6 defendant knowingly participated in the unlawful plan.

7 Here, in order to transfer a firearm unlawfully.

8 You can infer the agreement from the various  
9 activities and statements of the parties, also.  
10 Generally, of course, more direct evidence of such  
11 conspiracy is not available. It has to have a criminal  
12 purpose and the criminal purpose here is to violate  
13 the law and I have explained the law with respect to  
14 the transfer of a weapon.

15 Now, there also has to be overt acts. You cannot  
16 under our law convict somebody for merely agreeing  
17 to commit a crime. Something physical has to be done  
18 to carry out that agreement. Here the overt acts are  
19 in relation to the alleged meeting that took place on  
20 the corner between the occupants of these two cars.  
21 The Government has to prove one of those overt acts  
22 and it has to be in conformity with the charge, that  
23 is, in order to assist the parties in carrying out the  
24 conspiracy.

25 The act has to be willful and knowing. I



1  
2 have described that to you. I am going to tell you  
3 again. It has to be done intentionally, deliberately,  
4 and voluntarily, with the specific intent to accomplish  
5 something that the law forbids, that is to say, with  
6 the bad purpose to disobey the law.

7 Now, so much for those three counts. The  
8 possession count, transfer count and conspiracy count.

9 Let me talk again in more general terms. This  
10 defendant called several character witnesses who  
11 testified as to his good character and reputation.  
12 You may give such weight to the evidence as you deem  
13 appropriate, bearing in mind that evidence of good  
14 character, when considered with all of the other  
15 evidence in the case, may alone be sufficient to create  
16 a reasonable doubt of guilt.

17 In considering your verdict, you should consider  
18 this character evidence as well as all of the other  
19 evidence in the case.

20 As the attorneys indicated, a difficult problem  
21 for you is to evaluate the credibility of the various  
22 witnesses who testified. In doing so you can weigh  
23 the relationship of the witness to either the  
24 defendant or to the Government, the witness' bias, his  
25 or her interest in the outcome of the case, and the  
manner of the witness while testifying, as you observed

1  
2 then, the witness' candor, frankness, intelligence,  
3 the extent to which the witness has been corroborated  
4 or contradicted by other credible evidence.

5 Inconsistencies within what the witness  
6 testified to here or between what the witness said here  
7 and some other time before the grand jury or to an  
8 agent or to another person. If you believe that a  
9 witness has willfully sworn falsely before you with  
10 respect to a material element of the case, you're  
11 entitled to completely ignore that witness' testimony.  
12 But, you may not want to do that. You may feel that  
13 a witness is telling the truth in part and not telling  
14 the truth in another part and you have to select which  
15 part you want to believe.

16 One of the Government's witnesses, Mr. Bouknight,  
17 was an admitted criminal. He pleaded guilty and is  
18 facing a sentence. He testified that he was an  
19 accomplice in the crimes charged in the case.

20 The testimony of such a witness should be  
21 viewed with great caution and scrutinized carefully,  
22 because his criminal background may show a defect in  
23 his character which may make him more prone to lie or  
24 may lie to gain favor with the Government or to  
25 obtain a favor from the Court.



1  
2 But that is for you to decide and you may  
3 base your verdict on your belief of such a witness.

4 I'm not suggesting you not believe. I was  
5 just suggesting you carefully evaluate that witness'  
6 testimony.

7 The defendant here also testified that he at  
8 all times acted properly and without any evil intent.  
9 He of course has an interest in his own acquittal and  
10 his testimony also should be scrutinized carefully.  
11 Again, with that fact in mind that I'm not suggesting  
12 that you not believe him or that you believe him.  
13 You'll just have to decide that for yourselves.

14 You shouldn't give any greater weight or  
15 credibility to the testimony of a witness merely  
16 because he is a federal official, Special Agent.  
17 Their testimony is to be evaluated the same way as  
18 you would evaluate the testimony of any witness.  
19 You have got to consider all of the evidence in the  
20 case, whether it was introduced by the defendant or  
21 by the prosecution.

22 Obviously, the number of witnesses or the  
23 number of pieces of evidence is not determinative.  
24 Your own recollection will govern you and if you want  
25 any of the testimony read back, we'll be happy to try  
to locate it for you. It has not been typed up. It

1  
2 is still in these machines and it takes a little while  
3 to get it. So if a juror wants testimony, try to be  
4 specific, if you can, and you will understand why we  
5 can't give it to you right away. If you want any of  
6 the documents, we'll send those in. I don't think you  
7 will want the weapons, no point in having them sent in.

8 If you want any more help with the charge,  
9 why, of course, you can send in a note and I'll call  
10 you in and I'll discuss it further with you.

11 I will give you a few more words tomorrow  
12 morning.

13 You will see that the marshals are sworn in,  
14 then you will proceed with your deliberations. Now,  
15 you all try to be here at 9:30 so we can promptly  
16 start.

17 Is there any other instructions counsel wishes  
18 me to make?

19 MR. BREWSTER: None, your Honor.

20 MR. NAGER: None, your Honor.

21 THE COURT: Good night. Have a pleasant  
22 evening. Be here at 9:30. You all know where you're  
23 going tomorrow.

24 (Jury excused.)

25 (Whereupon, the Court recessed.)



1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----X  
5 UNITED STATES OF AMERICA, :

76-CR-110

6 -against- :

7 CALVIN MC CRAY, :

8 Defendant. :

9 -----X

10  
11 United States Courthouse  
12 Brooklyn, New York

13 April 23, 1976  
14 9:30 o'clock A.M.

15 B e f o r e :

16 HONORABLE JACK B. WEINSTEIN, U.S.D.J.  
17  
18  
19  
20  
21

22  
23 RAYMOND P. STALKER  
24 ACTING OFFICIAL COURT REPORTER  
25

1  
2 **Appearances:**  
3

4 DAVID C. TRACER, ESQ.  
5 United States Attorney  
6 for the Eastern District of New York

7 BY: RICHARD BREWSTER, ESQ.  
8 Assistant U.S. Attorney

9 GEORGE NACER, ESQ.  
10 Attorney for Defendant  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



(Time Noted: 12:05 p.m.)

THE CLERK: Jury note marked Court Exhibit 9.

(Jury enters box.)

THE COURT: You wanted the testimony and we tried to get that for you.

Read it, please.

(Whereupon, the Court Reporter read back Mr. William Lutz' testimony.)

THE COURT: You wanted testimony of Gagan about the money transfer on May 15th. Please read it.

(Whereupon, the Court Reporter read back the testimony.)

THE COURT: I see you've heard enough. We will stop reading.

Now, you want to hear the instructions on counts 2 and 3. I'll be happy to read them to you. When you've heard enough you can let me know.

Count 2 reads:

"On or about the 15th day of May, 1975, within the Eastern District of New York, Defendant Calvin McCray did knowingly, willfully and unlawfully transfer a firearm, as that term is defined in the Gun Control Act, to wit, a shotgun having a barrel length of less than eighteen inches without complying with the provisions of the statute."

This count alleges a violation of Title 26, Section 5861(e) of the United States Code, reading as follows:

"It shall be unlawful for any person to transfer a firearm in violation of the provisions of this chapter."

In order to convict the defendant of this crime, the defendant must prove beyond a reasonable doubt each of the following three elements:

First, that the defendant knowingly possessed the shotgun in question and that the weapon was a serviceable firearm, as I have already described it.

Second, that the defendant knowingly and willfully transferred the shotgun to another. The statute defines to transfer as follows:

"The term transfer shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of."

Third, the defendant must have failed to comply with the provisions of the United States Code with respect to an application for transfer, because you may not transfer anything without complying with the statute.

As to that, it has been stipulated that neither



Mr. McCray nor Mr. Bouknight complied with the statute requiring these technical matters on the transfer.

If you find beyond a reasonable doubt that the defendant knowingly transferred the shotgun without complying with the above requirements, you should find him guilty.

Under both counts 1 and 2 you may find the defendant guilty if you find that he aided and abetted Mr. Bouknight in the commission of the crimes charged.

Section 2 of Title 18 of the United States Code reads:

"Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures the commission, is punishable as a principal."

Or, whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

In order to find aiding and abetting, it is necessary to find the defendant willfully associated himself with the criminal venture charged and that he willfully participated in it as something he wished to bring about. Mere presence at the scene of a

1  
2 crime is not enough. If you want to find out whether  
3 the defendant aided or abetted, you must ask yourselves  
4 such questions as, "Did he willfully and knowingly  
5 associate himself with a criminal venture to transfer  
6 a shotgun in violation of the law? Did he participate  
7 in it as something he wished to bring about? Did he  
8 seek, by his actions, to help make it succeed? If he  
9 did, he 's an aider and abettor.

10 The aider and abettor must have knowledge of  
11 the facts constituting the crime. He must have a  
12 criminal intent and he doesn't have to know what the  
13 law is. That is to say, if he is intending to assist  
14 the act which would constitute the crime, knowing  
15 that there is criminal activity going on, then he is  
16 an aider and abettor.

17 It doesn't make any difference what the  
18 reasons are, whether he's doing it in order to make  
19 a profit or to help a friend or anything else.

20 It doesn't make any difference in this case.  
21 Therefore, whether Bouknight was selling the gun and  
22 McCray was aiding and abetting, as I have defined that  
23 term, or whether McCray was selling the gun and  
24 Bouknight was aiding. They would be both treated the  
25 same.



Count 3 charges that the defendant conspired with Albert Bouknight to make an illegal transfer. That reads as follows:

"On or about the 15th day of May, 1975, Calvin McCray and Albert Bouknight knowingly and unlawfully conspired and agreed and combined to commit an offense against the United States."

Excuse me, to knowingly transfer a firearm, as I have already described that transfer, and the following overt acts were committed:

The defendants McCray and Bouknight on May 15, 1975, went to the corner of Hastings Place and South Franklin St., Hempstead, on May 15th. The Defendants McCray and Bouknight did deliver the afore-said shotgun to an agent of the Bureau of Alcohol, Tobacco and Firearms.

The conspiracy statute reads:

"If two or more persons conspire to commit any offense against the United States, and one or more of such persons do any act to effect the object of the conspiracy, each is guilty of a crime."

So, if you find first that there were two or more persons, that is Bouknight and the defendant were involved, second, that they willfully conspired and

the defendant were involved, second, that they willfully conspired and knowingly conspired; third, the conspiracy was to violate the laws of the United States, and that they had the specific intent to do an act which would constitute a violation of the laws of the United States. You have to first ask whether there was a conspiracy, which is essentially an agreement and they do not have to state specific language what they are agreeing to. If they came to a mutual understanding, either before or during the course of their activities with respect to what they wanted to do together, that would be an agreement.

They would have to understand that there was going to be a transfer of firearms in violation of the statute.

You don't normally have specific evidence of this kind of conversation, so you have to infer from what happened whether they did come to this mutual implied understanding. In this case, the understanding they would sell the guns, because that's essentially what is charged here.

In addition, they have to commit an overt act. That is, they have to do something toward selling and here it is charged they actually went to this spot.



1  
2  
3 Is there anything further you want on that, any  
4 request that counsel would like?

5 MR. NACER: Yes, your Honor.

6 MR. BREWSTER: Yes.

7 THE COURT: Would you approach the side bar?

8 JUROR NO. 8: Can we ask questions?

9 THE COURT: Gentlemen, come to the side bar  
10 and the juror will ask a question.

11 JUROR NO. 8: Can all three counts be judged  
12 independently, if they are found guilty or --

13 THE COURT: Each count should be determined  
14 independently. You can consider the evidence, of  
15 course, with respect to all the counts, but you have  
16 to come in with three decisions and you are going to  
17 be asked guilty or not guilty on count 1, guilty or  
18 not guilty on count 2, and guilty or not guilty on  
19 count 3. You can, depending upon how you decide the  
20 case, you can come in with not guilty on all, guilty  
21 on all, or guilty on some and not guilty on others.

22 JUROR NO. 8: Count 2, the initial part of the  
23 transfer relates to possession, would you clarify that  
24 little bit?

25 THE COURT: There has to be a transfer of  
possession from one person to another.

JUROR NO. 8: It doesn't relate to the possession charged in the first count? \*

THE COURT: Somebody has to have possession. Either Bouknight or this defendant and there has to be a transfer from one or both of them to the agent.

(The following occurred at the side bar.)

MR. HAGER: I have a request with respect to possession. There cannot be a transfer unless somebody has possession --

THE COURT: Do you want me to tell them that? I just did.

MR. HAGER: Pardon me. There was also something, if it was sealed in a box, he never came into possession?

(continued next page)



(The following occurred in open court.)

THE COURT: Ladies and gentlemen, he would have to know, for this defendant to have participated in the transfer, he would have to know what was being transferred.

Let's assume there was a sealed case and I ask you, would you turn that over to somebody and he turns it over and I didn't know what was in it. He couldn't be guilty of transferring a gun if there was a gun in it. He would have to know what was being transferred at the time of transfer.

(The following occurred at side bar.)

MR. BREWSTER: I would ask you to point out that you would, however, not have to know what was happening -- the transfer taking place was illegal --

MR. NAGER: Yes, he does.

MR. BREWSTER: The Supreme Court has made that crystal-clear --

(The following occurred in open court.)

THE COURT: These people don't have to know all the regulations, you understand that. He would have to know that he was transferring this gun as part of an illegal scheme here.

JUROR NO. 3: I would like to know when the

1  
2 conspiracy starts and when does it end?

3 THE COURT: It can be a very short conspiracy.  
4 It could have started very shortly before, while they  
5 were in the car, days before. It doesn't have to have  
6 a specific term.

7 In this case, it is charged that the conspiracy  
8 took place on or about the 15th day of May. It could  
9 have started before the 15th and ended after the 15th  
10 or it could have started any time on the 15th and ended  
11 on the 15th.

12 It does not have to be for any specific length  
13 of time. You can enter into a contract just for a  
14 few minutes before the act is done. But you have to  
15 agree.

16 (Side bar.)

17 MR. NAGER: You can enter into it simultaneously  
18 and --

19 (The following occurred in open court.)

20 THE COURT: He would have to enter into the  
21 conspiracy before it actually physically started, the  
22 handing over. It doesn't make any difference how  
23 long before.

24 (The following occurred at side bar.)

25 MR. NAGER: With respect to aiding and abetting,



1  
2 he has to have a substantial involvement in the chain  
3 of events leading up immediately to the crime --

4 MR. BREWSTER: I don't think that is right.

5 THE COURT: I think I have charged on that.

6 Anything else?

7 MR. NAGER: I just want to make sure on that  
8 aspect of conspiracy, if he and during the course of  
9 turning it over and he discovered it, the conspiracy  
10 could have taken place at this time --

11 MR. BREWSTER: I object to any further  
12 instructions. It would tend to be confusing.

13 THE COURT: Anything further? Enjoy your lunch.

14 (The following occurred in open court.)

15 THE COURT: Enjoy your lunch. The sandwiches  
16 will be delivered in a few minutes. If there is  
17 anything further, the marshals will get it for you.

18 (Whereupon, the jury retired to their  
19 deliberations at 12:05 p.m.)

20 (Short recess.)

21 (Time noted: 12:30 p.m.)

22 (Jury now present.)

23 MR. NAGER: Your Honor, the application that  
24 I wanted to make was this: There was a question of  
25 the Court, when does a conspiracy start? Now, I

1 submit that is a question in a man's mind and in other  
2 words, can a conspiracy start up if I do this, if I  
3 hand over something immediately and if Mr. Brewster  
4 were to ask me to hand this over and I handed it over  
5 to him at this particular time, can it be said to be  
6 a conspiracy, can I be conspiring with him in a  
7 particular act at the same time it started? Can I  
8 be considered to be conspiring with an individual if  
9 I'm sitting in a car, not knowing there's anything that  
10 is going to be illegally done, and then I subsequently  
11 arrive at this particular stage, there hasn't been a  
12 guilty partnership, but there's got to be something.  
13 I think the question that was asked and the answer that  
14 was given left that unresolved.  
15

16 THE COURT: Read that back and let's see.

17 (Whereupon, the Court Reporter read back the  
18 Judge's instructions.)

19 MR. NACLER: That's the point I'm making, one  
20 can enter into a conspiracy on only one circumstance.  
21 That he's aware of something that it is going to be  
22 done. In other words, as I say, as part of the act,  
23 hand me something. Does that make me a participator,  
24 a partner in it? I've got to enter into something.  
25 I cannot just be an agent.



1  
2 THE COURT: I think I've charged them that.

3 MR. NAGER: May I take exception to that, as  
4 I believe, and as it was read back, it left a big  
5 question in my mind and I don't know what it may  
6 possibly lead in the gentleman's mind who asked the  
7 question.

8 THE COURT: I should say this: The jury seems  
9 remarkably able. I notice the juror No. 7 was taking  
10 notes. They were all extremely alert during the trial.  
11 A number of them were young, one of them is a student  
12 of the law. They had no hesitation in asking any  
13 questions when they were bothered.

14 They all indicated by shaking their head, an  
15 affirmation that they understood and I would have been  
16 happy to respond to further questions if there was any  
17 desire on their part to do so.

18 But it is my practice not to volunteer  
19 information in a situation like this.

20 MR. NAGER: Your Honor, I am not trying to  
21 persist, but I believe they look to the Court for  
22 guidance on these complex questions. If there is a  
23 dubiousness that exists as to how people in law  
24 interpret it, I think that no matter how alert they  
25 are -- you are the voice of experience and they should

1  
2 look to you for clarification. If there is anything  
3 that is really unclear, it militates against my client  
4 as well as I believe --

5 THE COURT: My action in reviewing them, they  
6 were all satisfied and they had no further questions.  
7 If I thought there was any doubt I would have asked  
8 them. What is the impression of the Government?

9 MR. BREWSTER: My impression, your Honor?  
10 The conspiracy question was very clear. My fear would  
11 be any further language on that point would not tend  
12 to clarify it, but --

13 THE COURT: If they wanted anything further --

14 MR. HAGER: May I take exception to that  
15 question concerning the transfer, that is in order to  
16 do it one must possess it and I don't think that is  
17 sufficiently clear.

18 THE COURT: I thought I said that.

19 MR. BREWSTER: I believe the Court was clear  
20 that one of the two had to possess it.

21 MR. HAGER: But the one that we're talking  
22 about, is that the name Calvin McCray specifically?

23 If I'm not mistaken in Indictment 2 --

24 THE COURT: But there's an aiding and abetting  
25 charge there. I don't understand your point.



1  
2 MR. NAGER: That is the point, your Honor.  
3 If Calvin McCray was not officially in possession of  
4 the item as set forth in Count 2, one could not be  
5 charged with the transfer, unless he were an aider and  
6 abettor and they would have to resolve that. But,  
7 count 2, as I read it, Calvin McCray is principally  
8 charged with transfer.

9 THE COURT: Also aiding and abetting.

10 MR. NAGER: I would say that it's more clear  
11 if you say --

12 THE COURT: I don't believe so. The charge is  
13 very clear. It mentions Section 2. There was no  
14 objection taken to the charge, which makes the aider  
15 and abettor aspect applicable to counts 1, 2 and  
16 probably there was no objection because that is the way  
17 the Government's indictment reads.

18 MR. NAGER: But I do except to what -- I have  
19 my exceptions with respect to the charge.

20 THE COURT: Your exception is noted.

21 MR. NAGER: Thank you.

22 Your Honor, if they are going to have lunch, I  
23 assume it might be permissible --

24 THE COURT: I'm not going to be back until  
25 2:25. You can take your lunch.

MR. NAGER: Thank you.

(Court recessed.)

JULIAN CALVIN McCRAY

DOCKET NO. &gt;

75 CR-1

## JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government  
the defendant appeared in person on this date \_\_\_\_\_

MONTH	DAY	YEAR
6	18	1976

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

G. Nagar, Esq.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,☐ NOLO CONTENDERE,☐ NOT GUILTY

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged  
☒ GUILTY. count 2

FINDING &  
JUDGMENT

Defendant has been convicted as charged of the offense(s) of violating T-26, U.S.C. Secs. 5812, 5861(e) and 5871 and T-13, U.S.C. Sec. 2, in that on or about May 15, 1975, the defendant, did knowingly, wilfully and unlawfully transfer a firearm without complying with the provisions of T-26, U.S. Code Sec. 5812.

the court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

SENTENCE  
OR  
PROBATION  
ORDER

5 years. Execution of sentence is suspended and the defendant is placed on probation for a period of 5 years and fined \$1,500.00., payable as the probation department directs over the period of probation on count 2.

SPECIAL  
CONDITIONS  
OF  
PROBATION

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D. NY  
JUN 18 1976  
TIME A.M. ....  
P.M. ....

ADDITIONAL  
CONDITIONS  
OF  
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

COMMITMENT  
RECOMMEN-  
DATION

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

Signed by: /s/ Jack B. Weinstein, dated: June 18, 1976



UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----X  
UNITED STATES OF AMERICA,

Plaintiff-Appellee,

Docket No. 76/1329

against-

AFFIDAVIT OF  
SERVICE

CALVIN McCRAY,

Defendant-Appellant.  
-----X

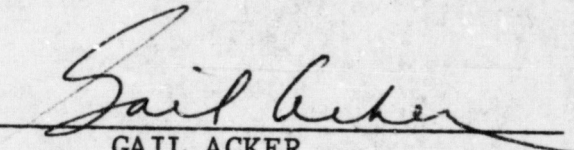
STATE OF NEWYORK )  
COUNTY OF NASSAU )

ss.:

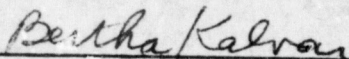
GAIL ACKER, being duly sworn, deposes and says:

That deponent is not a party to the action, is  
over 18 years of age and resides at Mineola, N w York.

That on the 24th day of September, 1976, deponent  
served the within Appendix upon the United States Attorney in  
this action at 225 Cadman Plaza East, Brooklyn, New York by  
depositing a true copy of same enclosed in a postpaid properly  
addressed wrapper, in an official depository under the exclusive  
care and custody of the United States post office department within  
the State of New York.

  
GAIL ACKER

Sworn to before me this  
24th day of September, 1976.

  
\_\_\_\_\_

BERTHA KALVAR  
Notary Public, State of New York  
No. 30-2022190  
Qualified in Nassau County  
Commission Expires March 30, 1977

STATE OF NEW YORK, COUNTY OF

CERTIFICATION BY ATTORNEY

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

Dated: .....

STATE OF NEW YORK, COUNTY OF

ATTORNEY'S AFFIRMATION

The undersigned, an attorney admitted to practice in the courts of New York State, shows: that deponent is the attorney(s) of record for in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. Deponent further says that the reason this verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: .....

STATE OF NEW YORK, COUNTY OF

ss.:

INDIVIDUAL VERIFICATION

deponent is the , being duly sworn, deposes and says that in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Sworn to before me, this day of 19 .....

STATE OF NEW YORK, COUNTY OF

ss.:

CORPORATE VERIFICATION

, being duly sworn, deposes and says that deponent is the the corporation named in the within action; that deponent has read the foregoing and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

This verification is made by deponent because

is a corporation. Deponent is an officer thereof, to-wit, its

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this day of 19 .....

STATE OF NEW YORK, COUNTY OF

ss.:

AFFIDAVIT OF SERVICE BY MAIL

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at

That on the day of 19 deponent served the within

upon in this action, at attorney(s) for

by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States post office department within the State of New York.

Sworn to before me, this day of 19 .....



NOTICE OF ENTRY

Sir :- Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

**NAGER, KOROBOW & GILBERT**

Attorneys for

Office and Post Office Address

1565 Franklin Avenue  
MINEOLA, N. Y. 11501

To

Attorney for

NOTICE OF SETTLEMENT

Sir :- Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court,

on the day of 19  
at M.

Dated,

Yours, etc.,

**NAGER, KOROBOW & GILBERT**

Attorneys for

Office and Post Office Address

1565 Franklin Avenue  
MINEOLA, N. Y. 11501

To

Attorney for

Index No. 76/1329

Year 19

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

CALVIN McCRAY,

Defendant-Appellant.

AFFIDAVIT OF SERVICE  
OF APPENDIX

**NAGER, KOROBOW & GILBERT**

Attorneys for Defendant-Appellant.

Office and Post Office Address

1565 Franklin Avenue  
MINEOLA, N. Y. 11501  
(516) PI 2-0700 — (212) FI 7-6324

To

Attorney for

Service of a copy of the within

Dated,

is hereby admitted.

Attorney for